

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9374 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BANDHARA DEEPTI DINESHCHANDRA

Versus

COMMISSIONER OF HIGHER EDUCATION

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Appearance:

MR PK JANI for Petitioner

Ms.Harsha Devani, AGP for the State

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/09/96

#### ORAL JUDGEMENT

The petitioner's daughter Deepti after having passed the new SSC examinations in March 1994 with 65.71%, applied for admission in Fine Arts Course of Commercial Arts in July 1994. She furnished all necessary informations and documents along with the form. However, under communication dated 12.9.1995, she was informed that her admission form was not accompanied by the date of birth certificate and School Leaving Certificate, and therefore, she has not been considered

for admission. She was also advised not to enter into any correspondence in this regard. The petitioner approached the Joint Commissioner of Education-respondent No.2 and tried to satisfy that the application was accompanied by the School Leaving Certificate, still nothing was done. Thus, the petitioner approached this Court by way of filing Special Civil Application which was registered as Special Civil Application No.8892/95. This Court, by order dated 19.10.1995, disposed of the Special Civil Application with a direction that if the petitioner makes a representation, the Commissioner, Higher Education shall hear the petitioner's daughter and decide the case sympathetically. The petitioner accordingly made representation on 10.10.1995. The petitioner was informed under communication dated 28.10.1995 that her representation has been rejected on the ground that the application was not accompanied by School Leaving Certificate. Similar applications of such 33 persons were also rejected.

2. The petitioner, Sharadchandra A Shah, father of the istudent has stated that he is an educated person. He had carefully read the instructions before despatching the application form. He checked and rechecked the entire details. He has submitted that his daughter obtained the School Leaving Certificate on 28.6.1995 for the purpose of sending it to the authority along with the form. The date of birth of his daughter is 17.6.1979 and as such she had completed 15 years on 28.6.1995. He has also stated on oath that the School Leaving Certificate was enclosed along with the application form. The application form was sent along with the School Leaving Certificate by Registered Post A.D. on 5.7.1995. On these facts, it is contended that the application of the petitioner's daughter was wrongly rejected on the ground that the application form was not accompanied by School Leaving Certificate.

3. From the narration of facts, it clearly appears that though the form was sent to the respondents on 5.7.1995, the decision refusing to consider the application on the ground of non-accompaniment of School Leaving Certificate was communicated by letter dated 12.9.1995 i.e. after more than 2 months. It is unfortunate that inspite of orders of this Court, the respondents have adopted a rigid attitude and has mechanically rejected the representation of the petitioner. I disapprove such sorts of attitude in educational institutions. If the authority found that the application was not accompanied by School Leaving Certificate, before refusing to consider the application,

they ought to have informed the petitioner by sending a letter by post or should have at least notified on the notice board and given sufficient time to remove such deficiencies. On the facts of the case, there is no reason to disbelieve the statement of the petitioner on oath that he had verified the form before despatching and that it was complete. The petitioner has also stated that School Leaving Certificate was obtained on 28.6.1995 for the purpose of sending to the respondent authority. Such mechanical rejection of application may in appropriate cases, suggest malafide. There must be transparency in admission system. No harm will be caused if it will take some more reasonable time i.e. 7 to 10 days. Administrative difficulties can never be placed above merit. Thus, on the facts of the case, refusal to consider the case of the petitioner's daughter is arbitrary and discriminatory, which deserves to be struck down. Suffice it to say that such sort of rejection is painful and persons taking shelter of administrative difficulties only expose them of their managerial incapacibilities. Less said the better it is.

4. It has also been brought to my notice that the authorities even refused to give copy of the order passed on the representation made by the petitioner. Restraining myself from saying more, I will only say that it was wrong on the part of the respondent.

5. In view of the aforesaid, this Special Civil Application is allowed. The orders dated 12.9.1995 and 26.10.1995 are quashed and set aside. Admission given to the petitioner's daughter in the Commercial Arts College on the basis of application submitted on 5.7.1995 is directed to be regularised.

Rule is made absolute accordingly.

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